

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff.

v.

Ramon Aragon, *et al.*

Defendants.

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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69cv07941 JEC/ACE
CLERK-SANTA FE

RIO CHAMA STREAM SYSTEM
Section 3: Rio Nutrias, Rio Cebolla
& Canjilon Creek

Subfile No. CHCJ-003-0029

MOTION TO VACATE CONSENT ORDER
IN SUBFILE CHCJ-003-0029 AND FOR LEAVE
TO FILE NEW CONSENT ORDER

COMES NOW the Plaintiff, State of New Mexico, *ex rel.* State Engineer, and moves the Court to issue its order vacating the Consent Order filed July 23, 2001, (Docket No. 6293) between Plaintiff State of New Mexico and Defendant HORTANCIA GARCIA in subfile CHCJ-003-0029, and granting leave for the State and Defendant RENEA P. GONZALES to file a new Consent Order in subfile CHCJ-003-0029 concerning Defendant Gonzales' right to use the public waters of the Rio Chama Stream System. As grounds therefore the Plaintiff states:

1. The State and Defendant Garcia signed and approved a Consent Order concerning Defendant Garcia's water rights under Subfile CHCJ-003-0029 based upon a determination, made during preparation of the State's Hydrographic Survey for the Canjilon Creek subsection of the Rio Chama Stream System, that Defendant Garcia owned the land associated with that subfile. In fact, Defendant Garcia transferred that land to Defendant Gonzales on July 6, 1999. Defendant Gonzales recently provided a warranty deed to the hydrographic survey staff that was filed in the Rio Arriba county clerk's office. There is no dispute between Defendant Garcia and Defendant Gonzales concerning Defendant

Gonzales' ownership of the land. As a result of this current information, the State's files were corrected to show that Defendant Gonzales owns the land associated with subfile CHCJ-003-0029.

2 Counsel for the State has contacted Defendants Garcia and Gonzales concerning the substance of this motion, and Defendants do not oppose vacating the Consent Order filed July 23, 2001, and the entry of a new Consent Order based upon the correct ownership of the land associated with subfile CHCJ-003-0029.

WHEREFORE, the Plaintiff State of New Mexico requests the Court to enter its order vacating the Consent Order filed July 23, 2001, (Docket No. 6293), and granting leave for the State and Defendant Gonzales to file a new Consent Order concerning Defendant Gonzales' right to use the public waters of the Rio Chama Stream System.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion to Vacate Consent Order in Subfile CHCJ-003-0029 and for Leave to File New Consent Order was mailed to the following persons on April 25, 2002.



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